

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING  
THE SUBMITTAL OF A PROPOSITION 46 HOUSING ASSISTANCE GRANT  
APPLICATION TO THE STATE OF CALIFORNIA DEPARTMENT OF HOUSING AND  
COMMUNITY DEVELOPMENT-BEGIN PROGRAM

WHEREAS, the City of Milpitas Consolidated Plan approved by the Department of Housing and Urban Development (HUD) identifies a high priority need for affordable housing for low and moderate income renters and homeowners; and

WHEREAS, the City of Milpitas General Plan Housing Element which has been certified by HUD identifies its Regional Housing Needs Determination for Milpitas as 4,348 units, in which 2,195 units are needed for very low, low and moderate-income households; and

WHEREAS, the City of Milpitas and the County of Santa Clara are facing an acute housing crisis which specifically impacts low and moderate income renters and homeowners' abilities to find affordable housing in the San Francisco Bay Area while the San Francisco Bay Area continues to be one of the least affordable housing markets in the country; and

WHEREAS, the City of Milpitas has adopted a Density Bonus Ordinance, waived development fees and provided Redevelopment Agency funds and Community Development Block Grant funds to assist in providing affordable housing to low and moderate income households; and

WHEREAS, over the past several years, the City of Milpitas Redevelopment Agency has provided approximately \$28 million in 20% Set-Aside Housing Funds to financial support 1,075 affordable housing units to meet the City's fair share of affordable housing requirements and yet notwithstanding the City Redevelopment Agency's financial support the City still cannot meet the demand for affordable housing units for its residents and workers, and

WHEREAS, the City of Milpitas' existing Senior Housing Project -- Terrace Gardens -- has a waiting list of over one thousand (1,000) senior citizens seeking affordable housing in Milpitas, and the Santa Clara County Housing Authority has a five year waiting list for Section 8 vouchers for affordable housing; and

WHEREAS, the Association of Bay Area Governments (ABAG) has determined that the Bay Area Median Home Price is \$721,850 and requires an income of \$169,180 to qualify for a median home. Also, the median home price in the Bay Area is 25% more than the median home price (\$545,910) in the State of California and over three times the median sales price in the nation; and

WHEREAS, the City of Milpitas continues to seek and find ways to leverage its affordable housing funds through applying for grants and loans consistent with the City's housing policies when they become available; and

WHEREAS, State of California Proposition 46 Housing Funds provide an opportunity for the City of Milpitas to seek additional funding and financial resources to continue providing homeownership assistance for first-time homebuyers.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milpitas authorizes staff to apply for Proposition 46 funds from the State of California CalHome Program- BEGIN ("Building Equity and Growth in Neighborhoods") for grant funds to assist first-time homebuyers in the purchase of newly constructed homes.

PASSED AND ADOPTED this 21st day of February 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven T. Mattas, City Attorney



CalHome Program  
Building Equity and Growth in Neighborhoods  
(BEGIN)

Notice of Funding Availability (NOFA)

Grants for Mortgage Assistance Loans on New Homeownership Units in BEGIN  
Projects where the Applicant Provides Regulatory Relief, Regulatory Barrier  
Removal, or Incentives to the Development

January 15, 2004

The California Department of Housing and Community Development (HCD) is pleased to announce the issuance of this Notice of Funding Availability (NOFA) under the Building Equity and Growth in Neighborhoods (BEGIN) Program. This Notice is for approximately \$24 million which is provided by the passage of Proposition 46, the Housing and Emergency Shelter Trust Fund Act of 2002, to provide funding to local public agencies for low- and moderate-income first-time homebuyer mortgage assistance.

The BEGIN Program is established and described in Chapter 14.5, Sections 50860 through 50866 of Part 2 of Division 31, Health and Safety Code. The BEGIN Program is a homeownership program designed to make grants to qualifying cities, counties or city and county that provide incentives or reduce or remove regulatory barriers for housing developments, as set forth in the BEGIN Guidelines. These grants shall be used for downpayment assistance in the form of a loan to qualifying first-time homebuyers of low- and moderate-income purchasing newly constructed homes in a BEGIN project.

Several of the terms used in the Program have specific meanings defined in the program Guidelines. For proper completion of the application, HCD urges potential applicants to review the program Guidelines. These Guidelines are available on HCD's website at [www.hcd.ca.gov/ca/begin](http://www.hcd.ca.gov/ca/begin). (All Section references in this NOFA refer to these Guidelines unless otherwise noted.)

Applications under this NOFA will be considered on an "over-the-counter" basis until available funds are exhausted. Applications are now being accepted at the address listed below. Applications that are substantially complete and pass threshold, will be eligible for funding. Eligible applications shall be funded in the order of receipt of a substantially complete application, subject to geographic distribution targets set forth below. All eligible applications received on or before 5:00 P.M. Pacific Standard Time on February 18, 2004 will be treated as having been received on February 18, 2004. At any time that the eligible applications received on the same date exceed the amount of funds remaining available, all eligible applications will be funded in order based on the

application's scores in the areas of regulatory relief and project readiness. The point assignment evaluation criteria in each of these categories is described in the Regulatory Relief and Project Readiness checklists on pages 11 and 12 of this NOFA.

### **Program Description:**

In exchange for regulatory concessions made at the local level, the BEGIN program provides up to \$30,000 per dwelling unit in downpayment assistance in the form of soft (silent) second financing to low- and moderate-income households. The primary intent of BEGIN is to encourage the reduction or removal of regulatory barriers that significantly increase the cost and viability of housing development. BEGIN provides an opportunity for cities and counties to *implement* regulatory relief measures in development of ownership housing for low- and moderate-income households. BEGIN's regulatory relief section rewards communities that have mitigation measures in place or that adopt new mitigation measures to ensure the building of affordable housing.

The applicant has identified the governmental constraints in its housing element, and exercised its power to relieve a barrier for the building of affordable units for the BEGIN program. By doing at least one of the actions described in the Regulatory Relief section of this NOFA, applicants have demonstrated regulatory decision making powers to provide incentives, or to reduce or remove a barrier to affordable housing in their community.

To be eligible for points for regulatory relief, the applicant must demonstrate the measures or actions to implement the incentive, or to remove or reduce a barrier for at least the BEGIN units. Examples of measures or actions a city or county could take to receive credit are listed below each category in the Regulatory Relief section below. The applicant may have an alternate measure or action that would achieve the same objective and the action may be described in the housing element. To ensure the regulatory relief was implemented, the applicant must describe and attach documents to support how the BEGIN eligible units benefited from the incentives, reductions, or removals.

**Housing element component:** Although not a threshold requirement, having a housing element in compliance provides a competitive edge to applicants that have complied with housing element law. Since housing elements analyze governmental constraints and identify measures for removal or mitigation of barriers, having a housing element in compliance demonstrates the locality's efforts to remove barriers to the creation of affordable housing.

### **Regulatory Relief and Project Enhancements:**

Regulatory relief and project enhancement are a change in an existing development standard which reduces barriers to, or cost of residential development. For your information, the following is the complete Section 106 (Regulatory Relief section) of the BEGIN Program Guidelines:

## Section 106. Regulatory Relief

The following regulatory concessions represent methods that cities and counties have implemented to assist in the development of affordable housing. If an applicant proposes to implement an alternative measure or action, it would have to be approved by the Department in order to receive points in any of the following categories. Applications must include sufficient information to ensure the regulatory barrier was removed on the specific BEGIN project. Evidence could include city council or board of supervisors' actions, including ordinances, variances or other program and policy implementation approved by the applicant.

### (1) Modification of Density:

- (a) Modification of Density Standards: The application must demonstrate that the project is characterized by at least one of the following conditions:
  - (1) the project is a multi-family development which will be developed at the highest allowable density achievable on the site; or
  - (2) is a single-family development built at a density of at least 10 units per acre; or
  - (3) the project will be developed with a density bonus pursuant to State Density Bonus law, but in excess of the minimum density 25% bonus required to be available.

### (2) Modification of Zoning Standards:

- (a) Modification of Zoning Standards: The project must have been subject to modification or reduction of zoning standards including at least one of the following:
  - (1) Ministerial approval of residential use on a site zoned commercial or for mixed use;
  - (2) The project is located within an area for which a specific plan was approved pursuant to Government Code Section 65450 et. seq., and was not subject to additional project-level environmental review;
  - (3) Project includes minimum lot sizes of less than 6000 square feet which were permitted without requiring permit processing subject to Planned Development zoning.

- (b) Lot consolidation: Project was/will be developed on a site, which had been involved in lot consolidation and/or assembly, including scattered sites.
- (c) Mitigation of Growth Controls: Jurisdiction had an ordinance or official measure which directly limits residential building permits or buildable lots for residential use. The applicant must demonstrate the jurisdiction has taken at least one action to reduce the constraints of this measure by:
  - (1) The maximum number of residential permits available for allocation was increased substantially
  - (2) Housing developments including units reserved for low income households are exempt from the restrictions
  - (3) Developers are allowed to bank or carry over credit to construct larger projects.

**(3) Reduction in Permit Processing/Regulatory Costs/Fees:**

Costs associated with development, such as permits, fees, exactions, impact, linkage, school and park fees can be significant barriers to the development of affordable housing. These costs are identified in the applicant's housing element. Actions applicants can implement to alleviate regulatory constraints can include the following options. To be eligible for points in this category, the applicant must demonstrate one of the reductions outlined below. The following is a sampling of methods to receive points.

- (a) Fees were reduced or waived for this project
- (b) Payment of fees were delayed, or deferred. (For example, allowing payment upon occupancy, rather than up front). Examples of fees are school, utility hook-ups, traffic mitigation, etc.
- (c) Expedited, or streamlined permit process for affordable housing development resulting in significantly reduced processing time, due to elimination of separate or sequential project reviews.
- (d) Parkland or open space requirements which were in excess of the statutory minimum pursuant to the Quimby Act, were reduced from a previous standard.
- (e) Streamlined design or architectural review process that had been determined to be a cost constraint to developing affordable housing.

- (f) Reductions/waivers or deviations in development standards, such as height, landscaping requirements, setbacks, lot coverage, FAR (floor area ratio), street widths.

(4) **Flexible Parking Standards:** In order to receive full points in this category, the parking standards on the BEGIN project must be modified by at least one of the following:

- (a) Crediting on-street parking or shared residential/commercial parking, toward minimum residential parking requirements.
- (b) Carports (unenclosed garages) are permitted to satisfy at least a portion of the parking requirement.
- (c) Parking requirements do not exceed 2 spaces per unit, including visitor parking spaces.

(5) **Project Design:** Full points will be given in this category to applications which include any one of following project design enhancements:

- (a) Accessory units included in the project are subject to only ministerial review and included in the project as an incentive to increase production.
- (b) Staff level design review (for example, not requiring full design committee review or other layers of review processes were removed and development design approval was expedited as a result.)
- (c) Provide off-the-shelf design packages, for example the applicant allowed prototype development, rather than custom design requirements..
- (d) Right-of way or easement dedication requirements were reduced for the project from a prior standard.

Regulatory relief and project enhancement do not include any actions which are otherwise required by law, such as actions taken in response to a density bonus application. Financial assistance from a third party, such as redevelopment agency funding, does not qualify as regulatory relief.

#### Eligible Applicants:

The BEGIN program is designed to promote partnerships between localities and housing developers to join together to reduce the cost and increase the supply of new homeownership opportunities for low- and moderate-income households. The locality's role is to offer specific forms of regulatory relief, development incentive or project

enhancements to identified BEGIN projects which reduce the per-unit cost of the housing. The locality is the applicant for BEGIN funds.

To be eligible to apply to the Department for an award of BEGIN program funds, the applicant shall be a city, county, or city and county within the State of California which is offering specific forms of regulatory relief, regulatory barrier removal, or other incentives to an identified BEGIN homeownership project.

Localities shall only be eligible to apply for an award of BEGIN funds for a BEGIN project in their jurisdiction. They may apply for funds for more than one project, but each project requires a separate application.

#### **Maximum and Minimum Application Amounts:**

The amount of grant funds to be requested is dependent on the number of units proposed for qualifying first-time, low- and moderate-income homebuyers in the proposed BEGIN project. The minimum number of BEGIN units required in any application is four.

The maximum BEGIN loan amount per unit is \$30,000 (thirty-thousand dollars), or 20% of the home sales price, whichever is less. The applicant may choose to provide less in BEGIN loan funds per units than the statutory maximum. The application amount will be equal to the average amount of proposed BEGIN subsidy (in the form of mortgage assistance) to be given to the eligible homebuyers, times the number of BEGIN units.

Each application will be for a separate BEGIN project. An applicant may submit more than one application in response to this NOFA.

#### **Eligible Uses of Funds:**

Local agencies may make loans to first-time homebuyers for mortgage assistance for permanent financing of a new homeownership unit ready for occupancy. This includes self-help housing mortgage assistance, except that BEGIN permanent financing may be disbursed at time of lot purchase where the self-help housing is being financed under the U.S. Department of Agriculture, Rural Housing Services 502 program.

#### **Ineligible Uses of Funds:**

Costs other than those allowed in Section 105 cannot be paid with BEGIN funds.

#### **Eligible Homebuyer/Homeowners:**

BEGIN Program borrowers must be low- or moderate-income households whose incomes shall not exceed 120% of the county median income adjusted for family size as defined in Section 102. The current limits are listed on the HCD website at:

[www.hcd.ca.gov/hpd/hrc/rep/state/incNote.html](http://www.hcd.ca.gov/hpd/hrc/rep/state/incNote.html)



Homebuyers must be first-time homebuyers as defined in BEGIN program Guidelines.

**Eligible Projects:**

A BEGIN project can be in the pre-construction phase, under construction or recently completed at the time the Recipient applies for funds under the current NOFA. BEGIN units must not have been previously occupied as homeownership units.

BEGIN projects shall be housing developments with newly constructed homeownership units which are designated as BEGIN units and are sold to BEGIN eligible households with BEGIN program mortgage assistance. Each BEGIN project must be under common ownership. A BEGIN project must have a minimum of four BEGIN homeownership units. The BEGIN project is defined as the BEGIN assisted units. The BEGIN project may be part of a larger subdivision.

**Project Readiness:**

A BEGIN project must be ready for homebuyer occupancy within 36 months of the award of funds. To demonstrate the proposed BEGIN project's likelihood of completion within this timeframe, an eligible project shall, at the time of application submit the following items in order to pass the project readiness threshold.

1. Site Control: The applicant's developer partner shall have site control of the proposed project property as described in Section 116.
2. Completed Phase 1 environmental assessment.
3. Development project budget with identified sources and uses.

If at any time, eligible applications submitted on the same date request funds which exceed the amount of funds remaining available, the Department will create a funding list based on the scores of the applications received. Scores will include the points attained on the regulatory relief checklist, plus additional points for project readiness. The project readiness points will be assigned on the following basis:

1. Evidence that design team has been identified and has been retained or is on the developer's staff. **10 points**
2. Construction financing commitments. **10 points**
3. Permanent financing: **20 points (divided as follows)**
  - a. Letters of express interest from primary lenders, **10 points**
  - b. Subordinate financing commitments as required to make the BEGIN units affordable to low- or moderate-income homebuyers, **10 points**
4. Local government approvals, **30 points (divided as follows)**
  - a. Tentative map approval, **5 points**
  - b. Final map recorded, **10 points**
  - c. Verification of all other local approvals in place, **15 points**

**Maximum Homeowner Loan Amounts:**

The loans made from grant funds to individual low-and moderate-income first-time homebuyers shall not exceed thirty thousand dollars (\$30,000) per BEGIN unit or 20% of the sales price, whichever is less. (See Section 111 for additional requirements)

**BEGIN Downpayment Assistance Program Guidelines Requirements:**

Loans to low- and moderate-income first-time homebuyers shall meet the downpayment assistance guideline requirements as established in Section 110.

**Timeframes for Use of BEGIN Funds:**

Successful applicants shall enter into a Standard Agreement with HCD. The term of the Standard Agreement shall be for 36 months from the date of the award letter. Recipients shall be required to meet the performance goals pursuant to Section 123. Failure to meet the performance goals may result in funds being disencumbered and/or a penalty point reduction on future applications.

**Geographic Distribution:**

To prevent an imbalance of funding and to ensure a reasonable geographic distribution of funds:

- 45% of the funds shall be reserved for projects in Southern California
- 30% of the funds shall be reserved for projects in Northern California
- 10% of the funds shall be reserved for projects in rural areas

If there is an insufficient number of eligible applications in either the southern, northern or rural areas, and the entire amount of any percentage set-aside is not used within six months of the NOFA release date, the balance of the set-aside and the remaining funds not assigned to a set-aside will be used to fund eligible applications in any area of the State based on highest ranking order.

For the purposes of these set-asides, Southern California includes the counties of San Luis Obispo, Kern, San Bernardino, and all counties to the South. Northern California includes all other counties of the State. "Rural" is defined in Section 50199.21 of the Health and Safety Code.

**Important Legal Matters:**

HCD reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such an action occurs, HCD will notify all interested parties. This NOFA is subject to the provisions of the BEGIN Program Guidelines adopted on December 11, 2003. Applicants are urged to carefully review the Guidelines before submitting an application.

### Application Procedures:

The BEGIN application will not be considered for funding unless the applicant demonstrates the following minimum requirements.

- (1) the applicant is eligible;
- (2) the activity is eligible;
- (3) the proposed use of funds is eligible;
- (4) the application was received before the close of the NOFA;
- (5) the application is complete;
- (6) the application has not been altered or modified except to accommodate computer software;
- (7) Project Readiness threshold met (see page 12); and
- (8) Regulatory Relief and Statutory Requirement threshold met (see page 11)

### Evaluation Criteria:

Applicants must receive a minimum score of 200 in the regulatory relief and statutory requirement section, and meet the project readiness standard in order to pass threshold.

Criteria	Max Points	
Project Readiness	1. Site control 2. Completed Phase 1 3. Development project budget with sources & uses	Must provide these items to pass threshold.
Regulatory Relief and Statutory Requirements	200	Must have at least 200 points to pass threshold.

### Application Submission:

Application must be made on the forms provided by HCD. Applicants may submit only **one** application per BEGIN project in response to this NOFA. Application forms must not be modified. **HCD must receive one original complete application in a three ring binder.** Applicants must meet the 200 points threshold upon submission.

Applications will be available at HCD's website, [www.hcd.ca.gov/ca/begin](http://www.hcd.ca.gov/ca/begin), no later than December 15, 2003, or you may contact program staff at (916) 327-2855. Applications must be delivered to one of the following addresses:

**U.S. Mail**

Department of Housing and  
Community Development  
CalHome Program  
Division of Community Affairs-  
P.O. Box 952054  
Sacramento, CA 94252-2054

**Private Courier**

Department of Housing and  
Community Development  
CalHome Program  
Division of Community Affairs  
1800 Third Street, Room 390-2  
Sacramento, CA 95814

It is the applicant's responsibility to ensure that the application is clear, complete and accurate. After the application is received, BEGIN staff may request clarifying information.

**Information and Assistance:**

Staff is available to answer questions regarding the program or the preparation and submittal of the application. Please call the BEGIN program staff at (916) 327-2855.

**A. Regulatory Relief Section for BEGIN:** must have a minimum of 50 points in this category to be eligible for the BEGIN program. Maximum of 250 points available.

	Total Points	Self Score	HCD
1. Modification of Density Standards	50		
2. Modification of Zoning Standards	50		
3. Reductions in Permit Processing/Regulatory Costs	50		
4. Flexible Parking Standards	50		
5. Project Design	50		
<b>Total points possible in regulatory relief</b>	<b>250</b>		

**B. Housing Element compliance section:** Applicant has an adopted housing element that HCD has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

1. Adopted Housing Element in Compliance	50		
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**C. Additional Points are given for applications meeting each of the following objectives:**

1. The extent to which the BEGIN units will serve low-income homebuyers: 25 points for 100%; 15 points for 50%, 10 points for 25%	10, 15, 25		
2. The location of the project on a site designated as "infill".	50		
3. The location of the project in proximity (within .25 miles) to:			
• Public transit	15		
• Public schools	15		
• Parks and recreational facilities	15		
4. The location of the project in any of the following job centers:	15		
• Los Angeles and Long Beach metropolitan statistical area (MSA)			
• Orange County MSA			
• San Diego MSA			
• San Francisco MSA			
• Oakland MSA			
• San Jose MSA			
• Sacramento MSA			
• Fresno MSA			
• Modesto MSA			
<b>Total Additional Points Possible</b>	<b>135</b>		
<b>Points required to meet the funding threshold</b>	<b>200</b>		

## BEGIN PROJECT READINESS SELF-SCORING SHEET

<b>A. Project Readiness</b> (All projects must meet the following three requirements in order to pass the Project Readiness Threshold)			
	<b>Yes</b>	<b>No</b>	
1. Site Control			
2. Completed Phase 1 Environmental Assessment			
3. Development Project Budget with Sources and Uses			
<b>Application meets Project Readiness Threshold</b>			
<b>B. Other Project Readiness Elements</b> The following categories will be used to award points for rating and ranking purposes should the demand for BEGIN funds require application scoring)			
	<b>Total Points</b>	<b>Self Score</b>	<b>HCD</b>
Design Status	<b>10</b>		
Construction Financing – Commitments in place	<b>10</b>		
Permanent Financing	<b>20</b>		
1. Primary Lender (10) points			
2. Subordinate Lenders (10) points			
Other Local Approvals	<b>30</b>		
1. Tentative Map Approval (5) points			
2. Final Map Approval (10) points			
3. Verification of Local Approvals (15) points			
<b>Total Additional Points Possible</b>	<b>70</b>		

State of California  
Department of Housing and Community Development  
Division of Community Affairs  
CalHome Program

**BEGIN**  
*Building Equity and Growth in Neighborhoods*

**Program Guidelines**

Table of Contents

Article 1. General

Section 100.	Purpose and Scope .....	3
Section 101.	Program Description .....	3
Section 102.	Definitions .....	5

Article 2. Program Requirements

Section 103.	Applicant Eligibility Requirements.....	10
Section 104.	Eligible Households .....	10
Section 105.	Eligible and Ineligible Uses of Funds .....	10
Section 106.	Regulatory Relief .....	11
Section 107.	Local Program Administration.....	13
Section 108.	Loan Servicing Requirements .....	14
Section 109.	Re-Use Account Requirements .....	15

Article 3. Mortgage Assistance Loan Requirements

Section 110.	BEGIN Downpayment Assistance Program Guideline Requirements.....	15
Section 111.	BEGIN Downpayment Assistance Loan Requirements.....	17

Section 112.	Local Loan Administration Requirements .....	19
--------------	--	----

#### **Article 4. Project Requirements**

Section 113.	Developer Experience .....	19
--------------	----------------------------	----

Section 114.	Eligible Projects .....	20
--------------	-------------------------	----

Section 115.	Eligible Forms of Homeownership .....	20
--------------	---------------------------------------	----

Section 116.	Project Readiness Requirements .....	21
--------------	--------------------------------------	----

#### **Article 5. Application Procedures**

Section 117.	Application Process .....	22
--------------	---------------------------	----

Section 118.	Application Requirements .....	23
--------------	--------------------------------	----

Section 119.	Selection Criteria .....	23
--------------	--------------------------	----

#### **Article 5. Program Operations**

Section 120.	Legal Documents .....	27
--------------	-----------------------	----

Section 121.	Disbursement of Grant Funds .....	29
--------------	-----------------------------------	----

Section 122.	Reporting Requirements .....	30
--------------	------------------------------	----

Section 123.	Performance Goals .....	30
--------------	-------------------------	----

Section 124.	Defaults and Award Cancellations .....	30
--------------	--	----



## Article 1. General

### **Section 100. Purpose and Scope**

- (a) The BEGIN Program and the Guidelines for the BEGIN Program set forth herein (the "Guidelines") are subject to the requirements of Health and Safety Code section 50860 et seq. (the "BEGIN Program Statutes") and except as provided in the BEGIN Program Statutes, the CalHome statutes at Health and Safety Code section 50650 et seq. (the "CalHome Statutes") and the CalHome Regulations at California Code of Regulations, title 25, section 7715 et seq. (the "CalHome Regulations"). Should there be an inconsistency between the Guidelines and the aforementioned authority, the BEGIN Program Statutes, CalHome Statutes, and CalHome Regulations, except as provided in the BEGIN Program Statutes, shall prevail.
- (b) Health and Safety Code section 50865 reads in part: The department may administer the BEGIN Program through Guidelines.
- (c) These Guidelines implement and interpret the provisions of Chapter 14.5, Sections 50860 through 50866 of Part 2 of Division 31, Health and Safety Code, which establishes and describes the Building Equity and Growth in Neighborhoods (BEGIN) program. Health and Safety Code section 50860 subdivision (b) states:

Except as otherwise provided in this chapter, moneys in the BEGIN Fund shall be made available upon appropriation by the Legislature to the department and administered by the department pursuant to the CalHome Program (Chapter 6 (commencing with Section 50650), to make grants to qualifying cities, counties, or cities and counties that provide incentives or reduce or remove regulatory barriers as set forth in this chapter. These grants shall, except as otherwise provided by this chapter, be used for downpayment assistance to qualifying first-time home buyers of low- and moderate-incomes purchasing newly constructed homes in a BEGIN project.

- (d) These Guidelines establish terms, conditions and procedures for the award and disbursement of funds allocated to this program by the Housing and Emergency Shelter Trust Fund Act of 2002 pursuant to subdivision (b) above.

### **Section 101. Program Description – An Overview**

The enabling BEGIN legislation (AB 1170, Chapter 724 of the laws of 2002) states that "while land prices in California are a key contributor to the state's low

housing affordability, permitting and regulatory cost add significant costs to new housing construction."

"The Legislature further finds and declares that a combination of lowering regulatory costs and increasing purchasing power for low- and moderate-income households, primarily through downpayment assistance, will significantly increase home ownership rates in California."

The BEGIN program is designed to foster partnerships between cities, counties, cities and counties, and housing developers joining together to reduce the cost and increase the supply of new homeownership opportunities for low- and moderate-income households. The local jurisdiction's role is to offer specific forms of regulatory relief, regulatory barrier removal or incentive to identified BEGIN projects that reduces the per-unit cost of the housing. The developer's role is to commit to making homeownership units available at an affordable price to low- and moderate-income households.

The Department's role is to supply the grant funds to the local jurisdiction so they can make downpayment assistance loans to the first-time, low- and moderate-income homebuyers.

### **Project Specific**

The funds awarded to the local jurisdiction under these Guidelines are to be used to assist low- and moderate-income, first-time homebuyers to purchase a new homeownership unit in a BEGIN project. A BEGIN project is a proposed homeownership development which is identified by the applicant jurisdiction as the recipient of BEGIN regulatory barrier removal or development incentive. The BEGIN project can be part of a larger development, or a stand-alone project. Other BEGIN project requirements can be found in section 113, 114, 115, and 116.

### **Mortgage Assistance**

To qualify to receive a loan of BEGIN funds, the buyer must be a low- or moderate-income first-time homebuyer household (see Section 102, Definitions). The assistance to the homebuyer will be in the form of a deferred payment loan with a 30 year term and 1% – 3% deferred simple interest. The maximum amount of the loan is \$30,000 or 20% of the purchase price, whichever is less. The loan is assumable if the home is re-sold to an income qualifying household. Additional information and requirements of the BEGIN mortgage assistance loans can be found in sections 110, 111, and 112.

## Regulatory Relief

The local jurisdiction's offer to the BEGIN project of an incentive or regulatory barrier removal or relief must have a financially measurable effect. Working with the Department's Housing Policy Development Division, the following areas of possible regulatory barrier removal have been identified.

- Modification of Density and Zoning Standards
- Reductions in Permit/Regulatory Costs
- Flexible Parking Standards
- Project Design

A detailed discussion of this vital aspect of the BEGIN program, and the heart of what constitutes a qualifying BEGIN project, can be found in sections 106 and 119.

### Section 102. Definitions

In addition to the definitions found in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the Health and Safety Code, the following definitions shall apply to these Guidelines. References to sections refer to the sections of these Guidelines unless otherwise noted.

- (a) "Affordable" as it describes a specific financial obligation, means that obligation can be paid by the person or household, along with all of other financial responsibilities, without endangering the financial stability of the household. The specific definition of "affordability" of a particular BEGIN project unit will be defined by each program Recipient in their Program Guidelines (section 110).
- (b) "Accessory unit", means a habitable living unit added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking, and sanitation. Accessory units may not be subdivided or otherwise segregated in ownership from the primary residence structure.
- (c) "Applicant" is the locality which submits an application to the Department to develop a local BEGIN project, and operate a local BEGIN program.
- (d) "Assisted units" means units purchased with a loan funded pursuant to these Guidelines.
- (e) "Back-end ratio" means the ratio between monthly household income and monthly housing costs plus all payments on long-term installment debt.
- (f) "BEGIN project" means only dwelling units that are assisted with BEGIN Program funds. A BEGIN project is a homeownership development under common ownership.

- (g) "Borrower" means a homebuyer(s) who has or will receive a BEGIN Program loan made from a local program funded pursuant to these Guidelines, signs the promissory note, and will be the homeowner of the property being financed.
- (h) "Department" means the Department of Housing and Community Development.
- (i) "Developer" means a legally constituted business or a nonprofit corporation that has site control of the project land, obtains the project financing and develops the homeownership project. Developer also refers to the staff identified as responsible for the critical tasks associated with the project development.
- (j) "Eligible household" means a low- or moderate-income household that is a first-time homebuyer. The eligible household shall occupy, or intend to occupy, the property as its principal residence.
- (k) "First-time homebuyer" means a borrower(s) who has not owned a home during the three-year period before the purchase of a home with BEGIN assistance, except that the following individual or individuals may not be excluded from consideration as a first-time homebuyer under this definition:
  - (1) a displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family;
  - (2) a single parent who, while married, owned a home with his or her spouse or resided in a home owned by the spouse. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; or
  - (3) an individual or individuals who owns or owned, as a principal residence during the three-year period before the purchase of a home with BEGIN assistance, a dwelling unit whose structure is:
    - (A) not permanently affixed to a permanent foundation in accordance with local or state regulations; or

- (B) not in compliance with state, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.
- (l) "Front-end ratio" means the ratio between monthly household income and monthly housing cost, including first mortgage principal, interest, taxes and insurance.
- (m) "Grant" means an award of funds made from the Department to eligible localities to support a BEGIN project.
- (n) "Gross income" means all income as defined in California Code of Regulations (CCR) Title 25, Section 6914.
- (o) "Homeownership" means fee simple title on real property or a leasehold interest on real property that enables the lessee to make improvements on and encumber the property and has a term sufficient to secure the BEGIN loan. Homeownership also includes ownership of manufactured housing on a permanent foundation and membership, ownership and occupancy in a limited-equity co-op development.
- (p) "Homeownership development project" means new construction on a site, including subdivisions, or scattered sites, that is under common ownership, development financing and construction.
- (q) "Household" means one or more persons occupying the same housing unit.
- (r) "Infill" For purposes of this program, a qualifying infill project must be located within an urbanized area on a site that has been previously developed for urban uses, or the immediately contiguous properties surrounding the project site are, or previously have been, developed for urban uses.
- (s) "Loan-to-value-ratio" means the ratio between the amount of all indebtedness lien, or to be lien, against a property and the appraised value of the property securing the liens.
- (t) "Locality" means a city, county, or city and county within the State of California.
- (u) "Local program" means a first-time homebuyer mortgage assistance loan program to provide BEGIN Program loans for the acquisition of property.

- (v) "Lower-or low-income household" means the same as defined in Section 50079.5 of the Health and Safety Code.
- (w) "Manufactured housing" means a structure, transportable in one or more sections as defined by Section 18007 of the Health and Safety Code. To be eligible for a BEGIN loan, a manufactured home must be installed on a permanent foundation.
- (x) "Ministerial" means, as defined in "Public Resources Code CEQA Guidelines Section 15369: 'Ministerial' describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out." These standards must be applied administratively to the application and not subject to discretionary decision-making by a legislative body.
- (y) "Moderate income households" means persons and families who are not "lower income households" and whose gross incomes do not exceed 120 percent of the area median income adjusted for family size in accordance with adjustment factors adopted by the United States Department of Housing and Urban Development in establishing income limits for lower income families. (a) The maximum gross income limits for moderate income households is the same as that for "persons and families of moderate income" and "persons and families of low or moderate income." (b) "Persons and families of low or moderate income" includes very low, lower, and moderate income households.
- (z) "Monthly housing cost" means the average of the estimated costs for the next twelve months for a homebuyer and shall include all of the following associated with that housing unit:
  - (1) principal and interest on a mortgage loan including any rehabilitation loans, and any mortgage insurance fees associated therewith;
  - (2) property taxes and assessments;
  - (3) fire and casualty insurance, including flood insurance when applicable, covering replacement value of property improvements;
  - (4) homeowner association fees or dues, if applicable;

- (5) lease payments, if the housing unit is situated on leased land; and
- (aa) "Mortgage" means a deed of trust which is used to secure a lien on real property.
  - (bb) "Mortgage assistance" means permanent financing, usually with deferred payments, used toward homebuyer costs as provided by funds pursuant to these Guidelines or from other sources. Another term for mortgage assistance is "downpayment assistance".
  - (cc) "Mortgage financing" means a long-term, permanent loan, provided by a mortgage lender, which is secured by a deed of trust, or, in the case of manufactured housing, a security instrument sufficient to perfect a security interest in the home.
  - (dd) "Mortgage lender" means a bank or trust company, mortgage banker, mortgage broker, federal or state chartered savings and loan association, State or Federal governmental agency or credit union whose principal business is to originate, process, close and service loans for the purchase or development (if appropriate) of property. "Mortgage lender" also includes nationwide institutions whose primary purpose is to develop housing and provide first mortgage financing to low-income purchasers of the developed housing.
  - (ee) "NOFA" is the acronym for Notice of Funding Availability. The NOFA is the document used by the department to announce that funds are available and applications may be submitted.
  - (ff) "Recipient" means a locality that receives an award of funds from the BEGIN Program
  - (gg) "Reuse account" means an account established pursuant Section 109.
  - (hh) "Rural area" means the same as defined in Health and Safety Code, Section 50101.
  - (ii) "Self-help construction" means "owner-building" as defined in Health and Safety Code, Section 50692 and may include mutual self-help housing as defined in Health and Safety Code, Section 5087.
  - (jj) "Site control" means control of a parcel of real property as described in Section 116(a).
  - (kk) "Standard Agreement" means the contract entered into between the Department and a Recipient pursuant to Section 121.

- (ll) "Volunteer labor" means skilled or unskilled construction labor provided without remuneration.

## **Article 2. Program Requirements**

### **Section 103. Applicant Eligibility Requirements**

Eligible applicants for a BEGIN Program award include all cities, counties, and city and county within the State of California. An applicant can only apply to assist a BEGIN project within its jurisdictional boundaries.

### **Section 104. Eligible Households**

To be eligible to receive the benefits of BEGIN funding, an individual household shall:

- (a) be a lower-income or moderate-income household, when considering the gross income of all household residents eighteen (18) years old or older.
- (b) include as borrowers on the BEGIN Program promissory note all persons who will be on title to the property; and
- (c) be a first-time homebuyer and intend to occupy the home as a principal place of residence.

### **Section 105. Eligible and Ineligible Uses of Funds**

BEGIN funds shall be used only for the following costs:

- (a) Mortgage assistance for permanent financing of:
  - (1) a new homeownership dwelling unit ready for occupancy, or;
  - (2) a unit constructed using the self-help method. In the case of self-help housing mortgage assistance, the BEGIN permanent financing may be disbursed at time of lot purchase where the self-help housing is being financed under the U. S. Department of Agriculture, Rural Housing Service 502 program;
- (b) Non-recurring loan closing costs;
- (c) Any use not expressly listed as eligible is an ineligible use of BEGIN funds.



## **Section 106. Regulatory Relief**

The following regulatory concessions represent methods that cities and counties have implemented to assist in the development of affordable housing. If an applicant proposes to implement an alternative measure or action, it would have to be approved by the Department in order to receive points in any of the following categories. Applications must include sufficient information to ensure regulatory barrier removal was relieved on the specific BEGIN project. Evidence could include city council or board of supervisors' actions, including ordinances, variances or other program and policy implementation approved by the applicant.

### **(1) Modification of Density:**

- (a) Modification of Density Standards: The application must demonstrate that the project is characterized by at least one of the following conditions:
  - (1) the project is a multi-family development which will be developed at the highest allowable density achievable on the site; or
  - (2) is a single-family development built at a density of at least 10 units per acre; or
  - (3) the project will be developed with a density bonus pursuant to State Density Bonus law, but in excess of the minimum density 25% bonus required to be available.

### **(2) Modification of Zoning Standards:**

- (a) Modification of Zoning Standards: The project must have been subject to modification or reduction of zoning standards including at least one of the following:
  - (1) Ministerial approval of residential use on a site zoned commercial or for mixed use;
  - (2) The project is located within an area for which a specific plan was approved pursuant to Government Code Section 65450 et. seq., and was not subject to additional project-level environmental review;
  - (3) Project includes minimum lot sizes of less than 6000 square feet which were permitted without requiring permit processing subject to Planned Development zoning.

- (b) Lot consolidation: Project was/will be developed on a site, which had been involved in lot consolidation and/or assembly, including scattered sites.
- (c) Mitigation of Growth Controls: Jurisdiction had an ordinance or official measure which directly limits residential building permits or buildable lots for residential use. The applicant must demonstrate the jurisdiction has taken at least one action to reduce the constraints of this measure by:
  - (1) The maximum number of residential permits available for allocation was increased substantially
  - (2) Housing developments including units reserved for low income households are exempt from the restrictions
  - (3) Developers are allowed to bank or carry over credit to construct larger projects.

**(3) Reduction in Permit Processing/Regulatory Costs/Fees:**

Costs associated with development, such as permits, fees, exactions, impact, linkage, school and park fees can be significant barriers to the development of affordable housing. These costs are identified in the applicant's housing element. Actions applicants can implement to alleviate regulatory constraints can include the following options. To be eligible for points in this category, the applicant must demonstrate one of the reductions outlined below. The following is a sampling of methods to receive points.

- (a) Fees were reduced or waived for this project
- (b) Payment of fees were delayed, or deferred. (For example, allowing payment upon occupancy, rather than up front). Examples of fees are school, utility hook-ups, traffic mitigation, etc.
- (c) Expedited, or streamlined permit process for affordable housing development resulting in significantly reduced processing time, due to elimination of separate or sequential project reviews.
- (d) Parkland or open space requirements which were in excess of the statutory minimum pursuant to the Quimby Act, were reduced from a previous standard.
- (e) Streamlined design or architectural review process that had been determined to be a cost constraint to developing affordable housing.

- (f) Reductions/waivers or deviations in development standards, such as height, landscaping requirements, setbacks, lot coverage, FAR (floor area ratio), street widths.

**(4) Flexible Parking Standards:** In order to receive full points in this category, the parking standards on the *BEGIN* project must be modified by at least one of the following:

- (a) Crediting on-street parking or shared residential/commercial parking, toward minimum residential parking requirements.
- (b) Carports (unenclosed garages) are permitted to satisfy at least a portion of the parking requirement.
- (c) Parking requirements do not exceed 2 spaces per unit, including visitor parking spaces.

**(5) Project Design:** Full points will be given in this category to applications which include any one of following project design enhancements:

- (a) Accessory units included in the project are subject to only ministerial review and included in the project as an incentive to increase production.
- (b) Staff level design review (for example, not requiring full design committee review or other layers of review processes were removed and development design approval was expedited as a result.)
- (c) Provide off-the-shelf design packages, for example the applicant allowed prototype development, rather than custom design requirements.
- (d) Right-of way or easement dedication requirements were reduced for the project from a prior standard.

#### **Section 107. Local Program Administration**

- (a) The Recipient shall implement the local program and be responsible for the following activities:
  - (1) marketing the local program;
  - (2) determination of a household's income-eligibility pursuant to the income requirements of these Guidelines;
  - (3) compliance with the following requirements:

- (A) Section 108 loan servicing requirements;
  - (B) Section 109 reuse account requirements;
  - (C) Section 110 BEGIN Downpayment Assistance Program Guideline requirements;
  - (D) Section 111 BEGIN Downpayment Assistance Loan Requirements;
  - (E) Section 112 Local Loan Administration Requirements.
- (4) disbursing funds on behalf of borrowers at the time of property acquisition;
  - (5) maintaining complete and accurate records of all BEGIN Program loan disbursements and repayments to ensure adherence to proper accounting procedures for the BEGIN Program loans, which may be verified by the Department and may be subject to a fiscal and programmatic audit;
  - (6) complying with reporting requirements pursuant to Section 122; and
  - (7) complying with all other locality requirements as set forth in these Guidelines and all applicable Federal and State regulations.

#### **Section 108. Loan Servicing Requirements**

- (a) Recipients shall develop and employ a loan servicing plan acceptable to the Department that shall be submitted to the Department for review and approval.
- (b) If loan servicing will be performed under a contract with a third party, that third party must be in the business of performing loan servicing; and
- (c) Recipients shall be required to enter into a long term monitoring agreement with the Department allowing Department monitoring of loan servicing for compliance with the Guidelines.

#### **Section 109. Re-use Account**

- (a) BEGIN Recipients shall develop and employ a reuse account plan acceptable to the Department that shall be submitted to the Department for review and approval.
- (b) All repayments of BEGIN Program loan principal and any BEGIN Program loan interest shall be deposited into a separately maintained reuse account governed by the reuse account plan approved by the Department.
- (c) Any interest earned on deposited BEGIN reuse funds must accrue to the BEGIN identified funds and be reused for first-time homebuyer downpayment assistance, home rehabilitation, home buyer counseling, home acquisition and rehabilitation, or self-help mortgage assistance for persons and families of low- or moderate-income.
- (d) Funds in the reuse account shall only be used by the Recipient for first-time homebuyer downpayment assistance, home rehabilitation, home buyer counseling, home acquisition and rehabilitation, or self-help mortgage assistance for persons and families of low- or moderate-income.
- (e) A portion of the funds deposited in the reuse account may be used to pay for the delivery of BEGIN eligible activities funded from the reuse account. The amount available to the Recipient to pay for activity delivery is dependent upon the activity funded, and is calculated as a percentage of the loan made to the low- or moderate-income household, or on a per-unit basis, i.e.;
  - (1) 10% for mortgage assistance;
  - (2) 15% for owner-occupied rehabilitation, and home acquisition with rehabilitation;
  - (3) \$350 for homebuyer education for each closed mortgage assistance loan where homebuyer education was provided;
  - (4) up to \$20,000 per unit for technical assistance on a self-help housing development project.
- (f) Recipients shall be required to enter into a long term monitoring agreement with the Department allowing Department monitoring of reuse accounts for compliance with these Guidelines.

### **Article 3. Mortgage Assistance Loan Requirements**

#### **Section 110. BEGIN Downpayment Assistance Program Guidelines Requirements**

- (a) BEGIN Recipients shall develop and employ Mortgage Assistance Program Underwriting Guidelines that, have been submitted to and approved by the Department as addressing the following underwriting topics:

- (1) Method for determining the sales price of BEGIN assisted units as affordable to BEGIN eligible households.
- (2) method for establishing the amount of the BEGIN Downpayment Assistance loan.
- (3) establish front and back-end ratios used to qualify the borrower;
- (4) what criteria will be used to determine the credit worthiness of the borrower;
- (5) requirements for the first mortgage:
  - (A) Borrower shall obtain the maximum first lien mortgage loan with a term and interest rate from a mortgage lender consistent with affordable housing costs as defined in each program's Guidelines.
  - (B) Mortgage loans shall not include provisions for negative amortization, principal increases, balloon payments or deferred interest.
- (6) financing subordinate to the BEGIN Program loan:
  - (A) fees and/or charges for subordinate financing shall be consistent with industry standards;
  - (B) there must not be a balloon payment due before the maturity date of the BEGIN Program loan;
  - (C) all subordinate financing provided shall defer principal and interest payments for the term of the BEGIN Program loan;
- (b) Cash out of escrow to borrowers are limited to the amount deposited into escrow by the borrowers and not needed for any lender-required minimum down-payment.
- (c) Recipients must obtain title insurance that includes the amount of the BEGIN Program loan at close of escrow.
- (d) Fire insurance (and flood insurance where applicable) requirements are as follows:
  - (1) Recipient must require borrowers to maintain insurance on the property in an amount at least equal to the replacement value of the improvements; and

- (2) Recipient must be named as additional loss payee on the policy.

**Section 111. BEGIN Downpayment Assistance Loan Requirements**

- (a) The maximum amount of the BEGIN Downpayment Assistance loan shall not exceed \$30,000 (thirty thousand dollars), or 20% of the purchase price of the BEGIN assisted unit (whichever is lower). The amount of the BEGIN Program loan will be determined by the Recipient on a case-by-case basis using the method as described in the Recipient's BEGIN Program Guidelines.
- (b) BEGIN Program loans shall be secured by the property or leasehold interest, as applicable.
- (c) The lien securing repayment of the BEGIN Program loan shall be subject only to liens, encumbrances and other matters of record reviewed and approved by the Recipient responsible for underwriting the BEGIN Program loan.
- (d) The combined indebtedness (all loans) secured by the BEGIN assisted unit shall not exceed one hundred (100) percent of the sales price plus a maximum of up to five (5) percent of the sales price to cover actual closing costs.
- (e) Homebuyer BEGIN Program loans shall have the following terms and conditions:
  - (1) principal and interest payments shall be deferred for the term of the BEGIN Program loan;
  - (2) loans shall be repayable when the property ceases to be owner-occupied in the first five years after the date of recordation of the deed of trust securing the BEGIN loan;
  - (3) loans shall be repayable upon the BEGIN Program loan maturity date;
  - (4) if at the loan maturity date, it is determined by the recipient that repayment of the BEGIN Program loan causes a hardship to the borrower, the recipient has two other options. They are:
    - (A) Amending the note and deed of trust to defer repayment of the amount due at loan maturity, that is the original principal and the accrued interest, for up to an additional 30 years (at 0% additional interest), this may be offered one time, or;

- (B) Converting the debt at loan maturity, that is the original principal balance and any accrued interest, to an amortized loan, repayable in 15 years at 0% additional interest.
  - (5) loans are assumable by another income-qualifying homebuyer' after five years from the recordation of the deed of trust securing the BEGIN loan.
  - (6) the following transfers of interest shall not require the repayment of the BEGIN Program loan:
    - (A) transfer to a surviving joint tenant by devise, descent, or operation of law on the death of a joint tenant;
    - (B) a transfer, in which the transferee is 'a person who occupies or will occupy the property, which is:
      - (i) a transfer where the spouse becomes an owner of the property;
      - (ii) a transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse becomes an owner of the property; or
      - (iii) a transfer into an inter vivos trust in which the borrower is and remains the beneficiary and occupant of the property;
  - (7) the term for first-time homebuyer mortgage assistance BEGIN Program loans shall be thirty (30) years with the following exception: when United States Department of Agriculture, Rural Housing Service (USDA-RHS) 502 mortgage loans are in first lien position, the term shall be the term of the 502 mortgage (30 to 38 years);
  - (8) a borrower may pay the BEGIN Program loan amount, in part or in whole, at any time without penalty.
- (f) All BEGIN assistance to individual households shall be made in the form of a loan. Recipients may make BEGIN Program loans bearing simple interest of one to three percent per annum, and may allow forgiveness of all or a portion of the accrued interest as part of its local program design. Loan principal shall not be forgiven. In lieu of making loans bearing a fixed rate of interest, recipients may instead charge contingent deferred



interest in the form of shared net appreciation as set forth in subsection (g).

(g) Shared net appreciation is allowed, only as follows:

- (1) gross appreciation is calculated by subtracting the original sales price from the current sales price or the current appraised value if the loan accelerating event is other than sale of the property;
- (2) net appreciation is calculated by subtracting the seller's applicable closing costs, seller's cash contribution in the original purchase transaction, the value of seller's sweat equity, if applicable, and the documented value of capital improvements from the gross appreciation amount;
- (3) the recipient may only claim repayment of the principal, interest and a portion of the net appreciation. That maximum portion of the net appreciation which may be claimed by the recipient is equal to the percentage of the value of the residence financed by the BEGIN Program loan. That is, if the loan equals twenty percent (20%) of the initial value of the residence, a maximum of twenty percent (20%) of the appreciation may be charged by recipient.

(h) In any loan transaction where the BEGIN Program loan is the only subsidy, the borrower cannot be restricted from selling the home at its fair market value at any time.

#### **Section 112. Local Loan Administration Requirements**

The recipient of BEGIN funds to operate a local mortgage assistance program shall be responsible for the following activities:

- (a) providing information and assistance to first-time homebuyers on obtaining maximum amount of first mortgage financing pursuant to the underwriting requirements in Section 111;
- (b) originating, underwriting, packaging and closing BEGIN Program loans in accordance with program requirements.

#### **Article 4. Project Requirements**

#### **Section 113. Developer Experience**

The developer of a proposed BEGIN project shall demonstrate the experience and capacity necessary to guarantee the successful completion of the BEGIN project. In order to demonstrate this, the developer shall have successfully developed a minimum of two affordable housing projects.

#### **Section 114. Eligible Projects**

- (a) BEGIN projects shall be newly constructed homeownership development project whose units are designated as BEGIN units and are sold to BEGIN eligible households with BEGIN Program mortgage assistance.
- (b) The types of BEGIN eligible homeownership units include:
  - (1) Single family detached units;
  - (2) Attached homeownership units;
  - (3) Units in co-housing developments;
  - (4) Manufactured housing on a permanent foundation;
  - (5) Ownership of housing on long-term leasehold land that enables the lessee to make improvements on and encumber the property and has a term sufficient to secure the BEGIN loan such as;
    - (A) Planned Unit Developments;
    - (B) Community Land Trusts;
  - (6) Limited-equity co-ops
- (c) BEGIN units shall be affordable to BEGIN eligible households as determined by the Recipient per Section 110
- (d) A BEGIN project must have a minimum of 4 BEGIN units
- (e) Subdivisions, infill sites, and assembled scattered sites can qualify as sites for a BEGIN eligible project.

#### **Section 115. Eligible Forms of Homeownership**

- (a) The following forms of homeownership are allowable in a BEGIN eligible project:
  - (1) Fee-simple title on real property, including manufactured housing on a permanent foundation;
  - (2) Leasehold interest on real property that enables the lessee to make improvements on and encumber the property and has a term sufficient to secure the BEGIN loan, or
  - (3) Membership, ownership and occupancy in a limited-equity housing co-op.

#### **Section 116. Project Readiness Requirements**

A BEGIN project can be in the pre-construction phase, under construction or recently completed at the time the Recipient applies for funds under the current NOFA. BEGIN units must not have been previously occupied as homeownership units.

A BEGIN project must be ready for homebuyer occupancy within 36 months of the award of funds. To demonstrate the proposed BEGIN project's likelihood of completion within this timeframe, an eligible project shall, at the time of application, exhibit the following levels of project readiness:

- (a) **Site Control:** To be eligible to apply for a BEGIN Program award, the applicant shall have site control of the proposed project property as evidenced by one of the following:
  - (1) fee simple title;
  - (2) an enforceable option to purchase, which shall extend, or may be extended, for a minimum of 180 days beyond the date of application submittal;
  - (3) a disposition and development agreement with a public agency, not to expire prior to 180 days after the application submittal;
  - (4) a sales contract, or other enforceable agreement for the acquisition of the property; or
  - (5) a leasehold interest, or an enforceable option to lease. The option to lease shall extend for a minimum of 120 days beyond the date of the application submittal. The leasehold term must be for a minimum of 40 years. The leasehold must have provisions that enable the lessee(s) to make improvements on and encumber the property for a term sufficient to secure the BEGIN lien; or
  - (6) other forms of site control that give the department equivalent assurance that the project will be able to proceed without inordinate delay.
- (b) Completed Phase 1 environmental assessment.
- (c) Design status readiness as demonstrated by an executed agreement with an architect, or other design team.
- (d) Development project budget with identified sources and uses
- (e) Construction financing commitments
- (f) Permanent financing;

- (1) Letters of express interest from 1<sup>st</sup> mortgage lenders
- (2) Subordinate financing commitments as required to make the BEGIN units affordable to low- or moderate-income homebuyers.
- (g) Because the BEGIN required regulatory relief, regulatory barrier removal, or other development incentive may be offered to the BEGIN project as an inducement to the developer to offer the BEGIN units, and because the availability of BEGIN funds for mortgage assistance may also serve as an inducement for the development of the BEGIN units, it is important the project readiness requirements allow for the applicant and the developer to consider BEGIN mortgage assistance at an early stage in the development process. Therefore local government approvals may not be issued or complete at the time of the application for BEGIN funds. The Department will require local approvals as milestones at 18 months after the date of execution of the standard agreement with the Recipient. These local approvals may include, but are not limited to:
  - (1) In the case of a subdivision, a final map;
  - (2) Zoning approval or development agreement approval;
  - (3) Environmental assessment completed through CEQA;
  - (4) Conditional use permits

## Article 5. Application Procedures

### **Section 117. Application Process**

- (a) The Department shall issue a Notice of Funding Availability (NOFA) that specifies, among other things, the amount of funds available, the grant award criteria, the dates that applications will be accepted, and the general terms and conditions of funding commitments. The Department shall also make information available in the NOFA describing the method used in evaluating applications in response to the NOFA.
- (b) Only applications that are substantially complete shall be eligible for funding. Applications will be considered for funding based on the date of receipt of a substantially complete application. Funds will be awarded to applications which meet the selection criteria as detailed in Section 120, in the order received, subject to (c) below, until all available funds are awarded, at which time applications will be closed.
- (c) In order to implement the goals and purposes of the BEGIN Program, the Department may adopt measures to direct funding awards to local programs that are located in rural areas or other geographic areas to achieve a reasonable geographic distribution of funding.

## **Section 118. Application Requirements**

Application shall be made on a form provided by the Department. The application will include a description of the incentives or regulatory barrier reductions or removal pursuant to Health and Safety Code Section 50863. The Department-provided application form shall request the following information:

- (a). Applicant identification information including: name, address, telephone number, contact person and a list of legislative representatives for the area where the program will be undertaken.
- (b). Governing board resolution which legally authorizes the application.
- (c). Certification that: the applicant has the authority to undertake the activities applied for; that it does not have any unresolved Department audit findings nor pending lawsuits; and that it agrees to comply with all program requirements.
- (d). A description of the incentives or regulatory barrier reductions or removals that the applicant has provided to the BEGIN project.
- (e). Evidence of meeting the criteria for the statutorily defined additional -- points (per Section 119 (c).(4)).
- (f). Certification of project readiness.
- (g). Program description including: amount applied for, number of units or households to be assisted, income levels of households to be assisted, description of prior experience operating a mortgage assistance program, geographic location of the activities, and financing sources and uses.
- (h). A description of how the applicant will comply with the requirements for local program administration set forth in Section 107.

## **Section 119. Selection Criteria**

- (a) Applications shall not be considered for funding unless the application is received by the deadline as stated in the NOFA and demonstrates that the requirements set forth below have been fulfilled in addition to the requirements contained in the NOFA
- (b) Applicants must also demonstrate that all of the following conditions exist:

- (1) the application contains substantially all of the information required by Section 118 and contains sufficient information to allow the Department to apply the rating factors set forth in the Guidelines;
  - (2) the applicant is eligible;
  - (3) the applicant proposes an eligible activity;
  - (4) the applicant proposes an eligible use of the funds;
  - (5) the applicant does not have any unresolved audit findings for prior Department projects or programs;
  - (6) the proposed project is consistent with any special terms and conditions of the NOFA (e.g., maximum amounts for downpayment assistance, sales price).
- (c) Applications shall be reviewed by staff for compliance with the requirements of Section 117, Section 118 and Section 119(a) and (b). Applications which comply with these requirements will be scored based on the information in the application relating to;
- (1) Applicant experience operating a mortgage assistance program;
  - (2) Regulatory relief offered in the proposed BEGIN Project per the following scoring criteria:

<b>A. Regulatory Relief Section for BEGIN: must have a minimum of 50 points in this category to be eligible for the BEGIN program. Maximum of 250 points available.</b>	
1. Modification of Density Standards	50
2. Modification of Zoning Standards	50
3. Reductions in Permit Processing/Regulatory Costs/Fees	50
4. Flexible Parking Standards	50
5. Project Design	50
<b>Total points possible in regulatory relief</b>	<b>250</b>
<b>B. Housing Element compliance section: Applicant has an adopted housing element that HCD has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.</b>	
1. Adopted Housing Element in Compliance	50
<b>C. Additional Points are given for applications meeting each of the following objectives:</b>	
1. The extent to which BEGIN units will serve low-income homebuyers: 25 points for 100%; 15 points for 50%; 10 points for 25%	10, 15, 25
2. The location of the project on a site designated as "infill".	50
3. The location of the project in proximity (within .25 miles) to:	
• Public transit	15
• Public schools	15
• Parks and recreational facilities	15
4. The location of the project in any of the following job centers:	15
• Los Angeles and Long Beach metropolitan statistical area (MSA),	
• Orange County MSA	
• San Diego MSA	
• San Francisco MSA	
• Oakland MSA	
• San Jose MSA	
• Sacramento MSA	
• Fresno MSA	
• Modesto MSA	
<b>Total Additional Points Possible</b>	<b>135</b>
<b>Points required to meet the funding threshold</b>	<b>200</b>

- (3) Project readiness threshold requirements:
  - (A) Site control;
  - (B) Completed Phase 1 with identified mitigations.
  - (C) Development budget with proposed sources and uses
- (d) Projects which receive a minimum of 200 points in regulatory relief and statutory project enhancement score and meet the project readiness threshold requirements will receive a preliminary award of BEGIN funds on a first received, first funded basis, until such time as all available funds under the NOFA are awarded.
- (e) If at any time, eligible and complete applications request funds which exceed the amount of funds remaining available, the Department will create a funding list based on the scores of the applications received. Application scores will include the points attained on the regulatory relief checklist, plus additional points for project readiness. The project readiness points will be assigned on the following basis:
  - (1) Design status readiness as demonstrated by an executed agreement with an architect, or other design team, **10 points**.
  - (2) Construction financing commitments, **10 points**.
  - (3) Permanent financing **20 points (divided as follows)**:
    - (A) Letters of express interest from 1<sup>st</sup> mortgage lenders, **10 points**
    - (B) Subordinate financing commitments as required to make the BEGIN units affordable to low- or moderate-income homebuyers, **10 points**.
  - (4) Local approvals, **30 points (divided as follows)**:
    - (A) Tentative Map Approval, **5 points**
    - (B) Final Map Recorded, **10 points**
    - (C) Verification of all other local approvals in place, **20 points**
- (f) Awards will then be made from the highest score until all funds are awarded.

#### **Article 6. Program Operations**

##### **Section 120. Legal Documents**

- (a) Upon the award of funds the Department shall enter into a Standard Agreement with the Recipient constituting a conditional commitment of



funds. This contract shall require the parties to comply with the requirements and provisions of these Guidelines. The Standard Agreement shall encumber State monies in an amount sufficient to fund the approved local project, subject to limits established in the NOFA and consistent with the application. The Standard Agreement shall contain, but not be limited to, the following

- (1) a description of the approved local project and the permitted uses of BEGIN program funds;
- (2) the agreed upon form of barrier removal, regulatory relief or incentive to development the local jurisdiction is pledging to the BEGIN project, and the implementation timeline;
- (3) requirements for the execution and, where appropriate, the recordation of the agreements and documents required under the BEGIN Program;
- (4) the Recipient's responsibilities for completion of the project, including, but not limited to, number of units to be assisted, marketing, BEGIN Program loan processing and funding, construction monitoring and disbursement, report submissions, file documentation;
- (5) manner, timing and conditions for disbursement of BEGIN Program funds to Recipients;
- (6) provisions relating to the placement on or in the vicinity of the homeownership development project site, a sign indicating that the Department has provided financing for the project. The Department may also arrange for publicity of the Department BEGIN project in its sole discretion;
- (7) remedies available to the Department in the event of a violation, breach or default of the standard agreement;
- (8) requirements that the Recipient permit the Department or its designated agents and employees the right to inspect the project or local program and all books, records and documents maintained by the Recipient in connection with the local program and the local program individual BEGIN Program loans;
- (9) special conditions imposed on a case-by-case basis as part of Department approval of the local project;
- (10) terms and conditions required by federal or state law; and

- (11) other provisions necessary to ensure compliance with the requirements of the BEGIN Program.
- (b) Prior to the disbursement of funds, the Department shall enter into a twenty (20) year monitoring agreement with the Recipient requiring the parties to comply with the requirements and provisions of Section 110 regarding a reuse account established pursuant to the BEGIN legislation. The monitoring agreement shall contain, but not be limited to, the following:
  - (1) requirements regarding the establishment of a reuse account for the deposit of BEGIN loan repayments, including interest and principal, and the requirements for disbursement of funds from the reuse account;
  - (2) the plan for servicing of the BEGIN loans as prepared by the Recipient to be reviewed for approval by the Department;
  - (3) the plan for the reuse of BEGIN funds as prepared by the Recipient to be reviewed for approval by the Department;
  - (4) requirements for submittal of an annual report on a form provided by the Department;
  - (5) remedies available to the Department in the event of a violation, breach or default of the monitoring agreement;
  - (6) requirements that the Recipient permit the Department or its designated agents and employees the right to inspect the local program or project books, and all records and documents maintained by the Recipient in connection with the reuse account and long term loan servicing; and
  - (7) other provisions necessary to ensure compliance with the requirements of the BEGIN Program.
- (c) All homebuyer BEGIN Program loans originated by a Recipient shall be evidenced by the following documents and provisions, models of which may be provided by the Department:
  - (1) a promissory note evidencing the BEGIN Program loan, payable to the Recipient in the principal amount of the BEGIN Program loan and stating the terms and rate of interest of the BEGIN Program loan consistent with the requirements of the BEGIN Program. The Recipient is prohibited from assigning their beneficial interest

under the note. The note shall be secured by a deed of trust, or other appropriate security instrument acceptable to the Department, on the homebuyer property naming the Recipient as beneficiary. This deed of trust or other appropriate security instrument shall be recorded and shall secure the Recipient's financial interest in the project.

#### **Section 121. Disbursement of Grant Funds**

- (a) BEGIN Program funds shall be disbursed on an advance or reimbursement basis. Details of the process for disbursements will be published in the current NOFA, and shall be included in all Standard Agreements. Advances may include, but are not limited to:

- (1) advances to escrow for mortgage assistance loans, upon Department approval.

#### **Section 122. Reporting Requirements.**

- (a) At any time during the term of the Standard Agreement or the Monitoring Agreement, the Department may perform or cause to be performed an independent financial audit of any and all phases of the Recipient's local program. At the Department's request, the Recipient shall provide a financial audit prepared by a certified public accountant.

#### **Section 123. Performance Goals**

- (a) For all BEGIN programs:
  - (1) One hundred (100) percent of funds must be expended within thirty-six (36) months of the date of the award of funds by the Department. If this goal is not met:
    - (A) the remaining unused funds shall be disencumbered by the Department; and
    - (B) if less than ninety-five (95) percent of the funds are expended at the end of the 36<sup>th</sup> month, the Recipient's next application for funding under the BEGIN Program shall receive a penalty deduction in the total points awarded pursuant to the current NOFA.

#### **Section 124. Defaults and Award Cancellations**

- (a) Funding commitments may be canceled by the Department under any of the following conditions:
  - (1) the objectives and requirements of the BEGIN Program cannot be met;
  - (2) implementation of the local project cannot proceed in a timely fashion in accordance with the timeframes established in the Standard Agreement; or
  - (3) funding conditions have not been fulfilled within required time periods.
- (b) In the event of a breach or violation by the Recipient of any of the provisions of the Standard Agreement, the Department may give written notice to the Recipient to cure the breach or violation within a period of not less than fifteen (15) days. If the breach or violation is not cured to the satisfaction of the Department within the specified time period, the Department, at its option, may declare a default under the relevant document and may seek legal remedies for the default including the following:
  - (1) the Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to complete the project in accordance with BEGIN program requirements; and
  - (2) the Department may seek such other remedies as may be available under the relevant agreement or any law.
- (c) Upon receipt of a notice of intent to cancel the commitment from the Department, the Recipient shall have the right to appeal to the Director.